

Panaji, 3rd April, 1986 (Chaitra 13, 1908)

86-87 II
SERIES II No. I

OFFICIAL GAZETTE



सर्वानन्द जयते

GOVERNMENT OF GOA, DAMAN AND DIU

GOVERNMENT OF GOA, DAMAN AND DIU

Planning Department

Order

No. 4-19-75/PLG-Vol-II

Read: Government Order No. 4-19-75/PLG-Vol-II dated 4-2-1986.

In supersession of Government order of even number dated 4-2-86 and on recommendations of the Group 'A' Departmental Promotion Committee of the Common Statistical Cadre Shri G. K. Verlekar, Statistical Officer presently on deputation to the Kadamba Transport Corporation Limited, Panaji is hereby given proforma promotion to the post of Dy. Director on officiating basis in the scale of pay of Rs. 700-40-900-EB-40-1100-50-1300 of the same cadre with effect from 28-2-1986.

Shri Verlekar should continue to be on deputation in the Kadamba Transport Corporation Limited as per the terms and conditions mentioned in the order No. 4-3-81/PLG dated 4-6-1985.

Shri Verlekar should exercise his option for fixation of his pay on promotion either under F.R. 22(c) straightaway without any further review of accrual of increment in the pay scale of the lower post or under F.R. 22(2)(i) initially and thereafter under F.R. 22(c) on the date of the accrual of the next increment in the scale of pay of the lower post within one month from the date of issue of this order. In case he fails to do so, the anomaly in pay caused thereby shall not be allowed to be removed.

By order and in the name of the Administrator of Goa, Daman and Diu.

P. W. Rane Sardessai, Under Secretary (Planning).

Panaji, 20th March, 1986.

Education Department

Order

No. 12-5-81-EDN/1663

Read:— Government Order No. 12-5-81-WET dated 30-3-1981 appointing Shri J. J. Goliwadekar, as Lecturer in Mechanical Engg. in Goa College of Engineering, Farmagudi with effect from 26-2-1981.

Shri J. J. Goliwadekar, Lecturer in Mechanical Engg. in the Goa College of Engineering, Farmagudi has been declared to have completed the period of probation of two years satisfactorily as on 25-2-1983.

By order and in the name of the Administrator of Goa, Daman and Diu.

D. N. Accawade, Under Secretary (Education).

Panaji, 14th March, 1986.

Order

No. 12-5-85-EDN-IX/1895

Shri Vinayak N. Shet is hereby temporarily appointed on ad-hoc basis as Lect. in Electrical Engg. in College of Engineering, Farmagudi, with effect from 24-3-1986 (F. N.) in the scale of Rs. 700-1300 plus the usual allowances admissible from time to time with the initial pay of Rs. 700/-.

The appointment is subject to the condition specified in the Office Memorandum No. 12-5-85-EDN-IX dated 24-2-1986 and the Rules Regulation laid down by the Government from time to time.

The appointment is purely on ad hoc basis and it will not bestow on the appointee any claim for regular appointment, promotion to the higher post and seniority and will be liable to be terminated by one month's notice or with payment of one month's salary in lieu of notice.

The appointment is liable for termination in case the character and antecedents of the appointee are adverse so as to disqualify him/her from holding a post under Government.

By order and in the name of the Administrator of Goa, Daman and Diu.

D. N. Accawade, Under Secretary (Education).

Panaji, 20th March, 1986.

Forest and Agriculture Department

Office of the Registrar of Co-operative Societies

Notification

In exercise of the powers vested in me under Section 9(1) of the Maharashtra Coop. Societies Act, 1960 as applied to this Union Territory of Goa, Daman and Diu, Prabhakar Coop. Housing Society Ltd., Margao is registered under the code symbol No. HSG-(b)-178/Goa.

L. T. de Menezes, Dy. Registrar of Coop. Societies.

Panaji, 4th February, 1986.

Certificate of Registration

Prabhakar Coop. Housing Society Ltd., Comba-Margao has been registered on 4-2-1986 and it bears registration No. HSG(b)-178/Goa, and it is classified as "Housing Society" under sub-classification No. "5(b)-Tenant Co-partnership Housing Society" in terms of Rule 9 of the Coop. Societies Rules, 1962 for the Union Territory of Goa, Daman and Diu.

L. T. de Menezes, Dy. Registrar of Coop. Societies.

Panaji, 4th February, 1986.

Notification

In exercise of the powers vested in me under Section 9(1) of the Maharashtra Coop. Societies Act, 1960 as applied to this Union Territory of Goa, Daman and Diu, Mahalaxmi

Coop. Housing Society Ltd., Mapusa is registered under the code symbol No. HSG-(a)-177/Goa.

L. T. de Menezes, Dy. Registrar of Coop. Societies.

Panaji, 3rd February, 1986.

Certificate of Registration

Mahalaxmi Coop. Housing Society Ltd., Mapusa-Goa has been registered on 3-2-1986 and it bears the registration No. HSG-(a)-177/Goa and it is classified as "Housing Society" under sub-classification "No. 5(a)-Tenant Ownership Housing Society" in terms of Rule 9 of the Coop. Societies Rules 1962 for the Union Territory of Goa, Daman and Diu.

A. Y. Gore, Asstt. Registrar of Coop. Societies, North Zone.

Panaji, 3rd February, 1986.

Notification

In exercise of the powers vested in me under Section 9(1) of the Maharashtra Coop. Societies Act, 1960 as applied to this Union Territory of Goa, Daman and Diu Suvidha Coop. Housing Society Ltd., Margao is registered under the code symbol No. HSG(a)-175/Goa.

L. T. de Menezes, Dy. Registrar of Coop. Societies.

Panaji, 29th January, 1986.

Certificate of Registration

Suvidha Coop. Housing Society Ltd., Ravanfond, Margao-Goa has been registered on 29th January 1986 and it bears the Registration No. HSG(a)-175/Goa and it is classified as "Housing Society" under Sub-Classification "No. 5(a) Tenant Ownership Housing Society" in terms of Rule 9 of the Coop. Societies Rules 1962 for the Union Territory of Goa, Daman and Diu.

L. T. de Menezes, Dy. Registrar of Coop. Societies.

Panaji, 29th January, 1986.

Notification

In exercise of the powers vested in me under Section 9(1) of the Maharashtra Coop. Societies Act, 1960 as applied to this Union Territory of Goa, Daman and Diu, Sanrit Coop. Housing Society Ltd. Malbhat, Margao is registered under the code symbol No. HSG(b)-176/Goa.

L. T. de Menezes, Dy. Registrar of Coop. Societies.

Panaji, 29th January, 1986.

Certificate of Registration

Sanrit Coop. Housing Society Ltd., Malbhat, Margao-Goa, has been registered on 29th January 1986 and it bears the registration No. HSG(b)-176/Goa and it is classified as "Housing Society" under Sub-Classification 'No. 5(b) Tenant Co-partnership Housing Society' in terms of Rule 9 of the Coop. Societies Rules, 1962 for the Union Territory of Goa, Daman and Diu.

L. T. de Menezes, Dy. Registrar of Coop. Societies.

Panaji, 29th January, 1986.

Office of the Asstt. Registrar of Coop. Societies

Notification

In exercise of the powers vested in me under Section 9(1) of the Maharashtra Coop. Societies Act, 1960 as applied to the Union Territory of Goa, Daman and Diu. The Fomento Group Employees' Coop. Credit Society Ltd., Pissurlem, Sanquelim-Goa is registered under Code Symbol Number RES-(a)-19/NZ/Goa.

A. Y. Gore, Asstt. Registrar of Coop. Societies, North Zone.

Mapusa, 20th January, 1986.

Certificate of Registration

The Fomento Group Employees' Coop. Credit Society Ltd., Pissurlem, Sanquelim-Goa has been registered on 20th Jan., 1986 and it bears registration Code Symbol Number RES-(a)-19/NZ/Goa and it is classified as a 'Resource Society' under Sub-Classification Number 8(a), Credit Resource Society in terms of Rule No. 9 of the Cooperative Societies Rules, 1962 for the Union Territory of Goa, Daman and Diu.

A. Y. Gore, Asstt. Registrar of Coop. Societies, North Zone.

Mapusa, 20th January, 1986.

Notification

In exercise of the powers vested in me under Section 9(1) of the Maharashtra Coop. Societies Act, 1960 as applied to the Union Territory of Goa, Daman and Diu. The Pernem Taluka Secondary School Employees' Coop. Credit Society Ltd., Pernem-Goa is registered under Code Symbol Number RES-(a)-20/NZ/Goa.

A. Y. Gore, Asstt. Registrar of Coop. Societies, North Zone.

Mapusa, 28th January, 1986.

Certificate of Registration

The Pernem Taluka Secondary School Employees' Coop. Credit Society Ltd., Pernem-Goa has been registered on 28th Jan., 1986 and it bears registration Code Symbol Number RES-(a)-20/NZ/Goa and it is classified as a 'Resource Society' under Sub-Classification No. 8(a), Credit Resource Society in terms of Rule No. 9 of the Cooperative Societies Rules, 1962 for the Union Territory of Goa, Daman and Diu.

A. Y. Gore, Asstt. Registrar of Coop. Societies, North Zone.

Mapusa, 28th January, 1986.

Notification

In exercise of the powers vested in me under Section 9(1) of the Maharashtra Coop. Societies Act, 1960 as applied to the Union Territory of Goa, Daman and Diu, Forest Department Employees Co-operative Credit Society Ltd., Ponda is registered under code symbol No. ARCS/CZ/3-(b)-20/Goa.

V. S. Hardikar, Asstt. Registrar of Coop. Societies, Central Zone.

Panaji, 17th December, 1985.

Notification

In exercise of the powers vested in me under Section 9(1) of the Maharashtra Coop. Societies Act, 1960 as applied to the Union Territory of Goa, Daman and Diu. The St. John of the Cross High School Staff Coop. Credit Society Ltd., Sanquelim-Goa is registered under Code Symbol No. RES-(a)-18/NZ/Goa.

A. Y. Gore, Asstt. Registrar of Coop. Societies, North Zone.

Mapusa, 30th December, 1985.

Certificate of Registration

The St. John of the Cross High School Staff Coop. Credit Society Ltd., Sanquelim-Goa has been registered on 30th Dec., 1985, and it bears registration Code Symbol No. RES-(a)-18/NZ/Goa and it is classified as a 'Resource Society' under Sub-Classification No. 8(a), Credit Resource Society in terms of Rule No. 9 of the Cooperative Societies Rules, 1962 for the Union Territory of Goa, Daman and Diu.

A. Y. Gore, Asstt. Registrar of Coop. Societies, North Zone.

Mapusa, 30th December, 1985.

No. 7-31-79/ARCZ

Read: This office order No. 7-31-79/ARCZ/LQD/82 dated 30-11-1984 appointing Shri V. R. Ghaisas, Sr. Auditor Cooperative Societies, Central Zone, Panaji as liquidator of Shri Mangesh Mahalsa Mahila Sahakari Grahak Bhandar Ltd., Mardol-Goa.

Order

In partial modification of this office order referred to above, Shri U. P. Talaulikar, Sr. Inspector Coop. Societies, Central Zone, Panaji is hereby appointed as liquidator of Shri Mangesh Mahalsa Mahila Sahakari Grahak Bhandar Ltd., Mardol-Goa in place of Shri V. R. Ghaisas.

D. V. Sathe, Asstt. Registrar of Coop. Societies, Central Zone.

Panaji, 31st January, 1986.

No. 7/1/75-TRANSP./ARNZ/Vol. VII/86

- Read: 1) This office Order No. 7/1/75-TRANSP./ARNZ/81 dated 10-12-81 taking the society into liquidation and appointed a Liquidator.
 2) This office Order No. 7/1/75-TRANSP./ARNZ/83-84/Vol. VI/85 dated 10-5-85, extending the period of Liquidator upto 10-12-1985.

Order

In virtue of the powers vested in me under Section 109(1) of the Maharashtra Cooperative Societies Act, 1960 as applied to the Union Territory of Goa, Daman and Diu. I, A. Y. Gore, Asstt. Registrar of Coop. Societies, North Zone, Mapusa hereby extend the period of Liquidator of North Goa State Transport Coop. Society Ltd., Mapusa upto 10-12-1986.

A. Y. Gore, Asstt. Registrar of Coop. Societies, North Zone.

Mapusa, 24th January, 1986.

No. 1/44/79-Seva/Thane/ARNZ/(LQD)/86

- Read: 1) This Office Order No. 1/44/79-Seva/THANE/ARNZ/81 dated 9-12-1981, whereunder The Thane Group V. K. S. S. Society Ltd., Thane, Satari taking into liquidation and appointed a Liquidator.
 2) This Office Order No. 1/44/79-Seva/Thane/ARNZ/(LQD)/85 dated 10-5-1985 extending the period of liquidator upto 9-12-1985.

Order

In virtue of the powers vested in me under Section 109(1) of the Maharashtra Cooperative Societies Act, 1960 as applied to the Union Territory of Goa, Daman and Diu. I, A. Y. Gore, Asstt. Registrar of Coop. Societies, North Zone, Mapusa hereby extend the period of the Liquidator of the Thane Group V. K. S. S. Society Ltd., Thane, Satari upto 9-12-1986.

A. Y. Gore, Asstt. Registrar of Coop. Societies, North Zone.
 Mapusa, 27th January, 1986.

No. 5/34/85/FDE-Credit/ARCS/CZ

Read: Notification No. 5/34/85/FDE-Credit/ARCS/CZ dated 17-12-1985 of the Forest Department Employees Co-operative Credit Society Ltd., Ponda-Goa.

Corrigendum

The words "ARCS/CZ/3-(b)-20/Goa appearing in the 5th & 6th lines of the Notification referred to above may be substituted to read as "ARCS/CZ/8-(a)-20/Goa."

Sd/- (V. S. Hardikar), Asstt. Registrar of Coop. Societies, Central Zone.

Panaji, 17th January, 1986.

No. 5/34/85/FDE-Credit/ARCS/CZ

Read: Certificate of Registration No. 5/34/85/FDE-Credit/ARCS/CZ dated 17-12-1985 of the Forest Department Employees Co-operative Credit Society Ltd., Ponda-Goa.

Corrigendum

The words "9(3) (b)" appearing in the 5th line of the certificate referred to above may be substituted to read as "8(a)."

Sd/- (V. S. Hardikar), Asstt. Registrar of Coop. Societies, Central Zone.

Panaji, 17th January, 1986.

Certificate

The Forest Department Employees Co-operative Credit Society Ltd., Ponda has been registered on 17-12-1985 and it bears registration code symbol No. ARCS/CZ/3-(b)-20/Goa and it is classified as a Salary Earners Society in terms of Rules 9(3)(b) of the Co-operative Societies Rules, 1962 for the Union Territory of Goa, Daman and Diu.

V. S. Hardikar, Asstt. Registrar of Coop. Societies, Central Zone.

Panaji, 17th December, 1985.

Industries and Labour Department

Order

No. 28/30/82-ILD

The following Award given by the Industrial Tribunal, Goa, Daman and Diu is hereby published as required under the provisions of Section 17 of the Industrial Dispute Act, 1947 (Central Act XIV of 1947).

By order and in the name of the Administrator of Goa, Daman and Diu.

Subhash V. Elekar, Under Secretary (Industries and Labour).

Panaji, 29th January, 1986.

IN THE INDUSTRIAL TRIBUNAL GOA, DAMAN & DIU,
PANAJI GOA

(Before Dr. Renato de Noronha, Hon'ble Presiding Officer)

Reference No.: IT/63/82

Shri Tony Vaz

— Workman/Party I

V/S.

M/s. Cosme Matias Menezes Pvt. Limited

— Employer/Party II

Workman/Party I represented by Shri George Vaz, Union Leader.

Employer/Party II represented by Adv. G. K. Sardessai.

Panaji, Dated: 13-1-1986.

AWARD

The Government of Goa, Daman and Diu, by its Order No. 28/30/82-ILD dated 23rd November, 1982, has referred for the adjudication of this Tribunal of an industrial dispute between the above parties. The schedule annexed to the order of reference reads as follows:

"Whether the action of the employer, M/s. Cosme Matias Menezes Private Limited, Panaji Goa, in terminating the services of Shri Tony Vaz, Store Keeper, w.e.f. 4-10-1978 is legal and justified?

If not, to what relief the workman is entitled to?"

2. By my order dated 26-7-1985, the preliminary issue on the fairness of the domestic inquiry conducted by the employer was disposed off and held that the said inquiry was fair and proper and conducted with due compliance of the principles of natural justice. Let us see now whether, in the said inquiry, the employer has made out a *prima facie* case for the punishment of the workman and, if so, whether the punishment of discharge imposed on him would be justified in the circumstances of the case.

3. I have carefully perused the inquiry proceedings and from the evidence led by the employer, I am satisfied that the employer has made out a *prima facie* case to show that, on the day of the alleged incident, the workman was under the influence of liquor and, during duty hours, was involved in a quarrel with Ganga Santoskar, who used to serve tea to the employees of the firm, in the course of which there was mutual exchange of abuses. The workman admitted this fact in the explanation to the charge sheet, stating that he is not much conscious of what he did on that day, as he was under the influence of liquor. The allegation of the workman in para 6 of his rejoinder dated 22-2-1983 was that the said letter was written "because one of the Directors asked him to give such reply and that he would be reinstated if admitted" is not supported by any evidence at all. His further allegation in his written arguments that the Inquiry Officer "was biased against the workman and had conceived with the company's representative to make out a case of assault and drunkenness against the workman" is also not supported by any evidence.

4. Out of the charges framed, the only one which can be considered as proved, is that the workman was drunk while on duty and was involved in the exchange of abuses with Ganga in the premises of the establishment, which would amount to an act subversive of discipline and good behaviour.

5. The charge of assault cannot be considered as proved, in view of the statement of the employer's witness Vincent Araujo, "that he was all the time present from Ganga and Tony entering the workshop till Tony was driven away and during all this time Tony did not give a fist blow or assault Ganga".

6. No bad past record has been proved against the workman who, at the time of the incident, was putting in about 23 years of service with the employer. The contention of the employer in his written arguments that the medical certificate produced by the workman would prove that he is an alcoholic does not prove that, on account of such alcoholism, the workman has not discharged properly his duties during all this time. On the contrary, the fact that this being the first time he was charged sheeted would go to show that during the previous period he has not committed any misconduct which had to be dealt with seriously by the Management.

Being so, I am of the view that the punishment of discharge imposed by the employer on the workman for a single misconduct committed in a drunken condition would be very harsh. In the circumstances of this case and under the powers given to me by section 11A of the Act, I pass the following order:

ORDER

The discharge order passed by the employer is hereby set aside. For the misconduct committed by the workman during duty hours in a drunken condition, he is punished with suspension for 10 days. The remaining period during which he has been out of job till his effective reinstatement, which I now hereby direct, to be treated as on duty, but paid only half of his wages, as it is difficult to believe that he has remained idle during all this time. Costs of Rs. 200/- to be paid by the employer to the workman.

Dr. Renato de Noronha
Presiding Officer
Industrial Tribunal

Order

No. 28/6/86-ILD

The following Award given by the Industrial Tribunal, Goa, Daman and Diu is hereby published as required under the

provisions of Section 17 of the Industrial Dispute Act, 1947 (Central Act XIV of 1947).

By order and in the name of the Administrator of Goa, Daman and Diu.

Subhash V. Elekar, Under Secretary (Industries and Labour).

Panaji, 19th February, 1986.

IN THE LABOUR COURT GOA, DAMAN AND DIU, PANAJI-GOA

(Before Dr. Renato de Noronha, Hon'ble Presiding Officer)

Application No.: LCC/17/85

Shri Mohan Sadashiv Sawant
V/S.

Shri P. I. Memon, M/s. Paramount Security Services

— Applicant
— Opponent

Panaji. Dated: 10-2-1986

AWARD

This is an application under Section 33C(2) of the I.D.A., 1947, in short the Act, filed by the above applicant against the above Opponent, claiming from the latter the total amount of Rs. 884/75, as per the specification given in the annexure to the application.

2. The Opponent was duly served with notice to file his written statement, but did not file any written statement, nor did he remain present before the Court and so the case proceeded ex-parte against him. He was also directed, at the request of the applicant, to produce the registers maintained by the applicant, which he failed to produce and so order was passed on 13-1-1986, that, in the absence of production of registers asked for, adverse inference was to be drawn against the employer.

3. The case of the applicant is that, he was working for the Opponent as Security Guard. He was not issued any appointment letter and has resigned from services by the end of September 1985. In the beginning, his salary was Rs. 325/- per month, but after 3 months it was increased to Rs. 350/- per month. He has not been paid wages of September 1985, amounting to Rs. 350/-. His deposit of Rs. 100/- taken by the employer for uniform has not been returned to him. Rs. 25/- per month which the company was deducting during 8 months as part payment of the uniform supplied are also retained by the company. He is entitled also for overtime during 10 days of 8 hours per day, as well as gratuity of 15 days totalling Rs. 434/-. He has claimed in all Rs. 884-75.

4. From the document Exh A-1, filed by the applicant, it is seen that the employer has received an advance of Rs. 100/- from the Opponent for supplying him the uniform, the cost of which would be Rs. 165/-. The contention of the applicant that, besides this, the company has also deducted Rs. 25/- per month which totals Rs. 200/- during 8 months for the payment of the said uniform has not been rebutted by the company. The applicant's contention that his wages for September 1985 were also not paid by the company is to be admitted as correct, as it was not challenged by the employer.

Regarding gratuity, since the workman applicant has worked for one year he is entitled to 15 days salary, as gratuity.

Finally, regarding overtime, the same cannot be considered, as the applicant has not given the necessary details for the purpose of this computation.

5. In the premises above, I pass the following order:

ORDER

The Opponent employer is directed to pay to the applicant Rs. 100/- taken from him as advance for uniform, Rs. 200/- deducted from the Opponent's salary for the purpose of uniform, Rs. 350/- of the applicant's salary for the month of September, 1985 and 15 days salary as gratuity. Costs of Rs. 100/- to be paid by the Opponent to the applicant.

Dr. Renato de Noronha

Presiding Officer
Labour Court

Order

No. 28/6/86-ILD

The following Award given by the Industrial Tribunal, Goa, Daman and Diu is hereby published as required under the provisions of Section 17 of the Industrial Dispute Act, 1947 (Central Act XIV of 1947).

By order and in the name of the Administrator of Goa, Daman and Diu.

Subhash V. Elekar, Under Secretary (Industries and Labour).

Panaji, 7th February, 1986.

IN THE LABOUR COURT GOA, DAMAN & DIU,
PANAJI GOA

(Before Dr. Renato de Noronha, Hon'ble Presiding Officer)

Application No.: LCC/18/85

Shri Julio Rodrigues — Applicant
V/s.
M/s. Hotel Silver Sands — Opponent

Applicant represented by Shri P. Ghodge, President, Goa Shops and Industrial Workers' Union.

Panaji. Dated: 27-1-1986.

AWARD

This is an application moved by the above applicant under Section 33C(2) of the I.D.A., 1947, claiming from the Opponent the amounts mentioned in the annexure. The main claim of the applicant, as it is seen from the annexure, is the recovery of his wages directed to be paid by the Labour Commissioner as 1st Appellate Authority under the Shops and Establishments Act, 1973, in short, the Act.

2. The Opponent was duly served with a copy of the application but did not file any written statement, nor did he remain present at the time of hearing.

3. The case was heard ex-parte and the applicant's statement was recorded, who confirmed the contents of his application.

4. As the applicant's main claim is for the amount directed to be paid to him by the Labour Commissioner as 1st Appellate Authority under Section 40(2) of the Act, he had to follow the procedure prescribed by Section 40(4) of the said Act for the recovery of the amount, which he has failed to do. Instead, he has moved this application before this Court under Section 33C(2) of the I.D.A., 1947.

I feel that this Court has no jurisdiction to deal with this application, in view of the provision made by Section 40(4) of the Act, specifying the authorities who are competent to recover the amount directed to be paid by the Labour Commissioner under this said section. Hence, I pass the following order:

ORDER

As this court is none of the authorities provided by section 40(4) of the Act, for recovery of the amount, I dismiss this application for want of jurisdiction.

Dr. Renato de Noronha
Presiding Officer
Industrial Tribunal

Order

No. 28/6/86-ILD

The following Award given by the Industrial Tribunal, Goa, Daman and Diu is hereby published as required under the provisions of Section 17 of the Industrial Dispute Act, 1947 (Central Act XIV of 1947).

By order and in the name of the Administrator of Goa, Daman and Diu.

Subhash V. Elekar, Under Secretary (Industries and Labour).

Panaji, 19th February, 1986.

IN THE LABOUR COURT GOA, DAMAN & DIU,
PANAJI - GOA

(Before Dr. Renato de Noronha, Hon'ble Presiding Officer)

Application No.: LCC/35/84

Shri B. Jayaraj

— Applicant

V/s.

M/s. Indian Duplicator Co. Ltd.

— Opponent

Applicant represented by Adv. A. Mashelkar.

Opponent represented by Adv. G. R. Sharma.

Panaji. Dated: 10-2-1986.

AWARD

This is an application under Section 33C(2) of the I.D.A., 1947, in short the Act, filed by the above applicant against the above opponent, claiming from the latter the amount of Rs. 11,750-00, as per the specification given in the annexure to the application.

2. The employer Opponent, in its reply, has raised preliminary objections concerning the jurisdiction of this Tribunal, one of them being that this Tribunal has not been specifically appointed by the Government to entertain this application, as required under Section 33C(2) of the Act and, therefore, has no jurisdiction to entertain this application.

3. Both the parties led their oral arguments on the above issue.

4. Section 33C(2) of the Act is clear to the effect that only such Labour Courts as specified by the Government are competent to entertain an application filed under the said provision. The Supreme Court also has held in the case of Treogi Nath and others V/s. Indian Iron Ore and Steel Company and others, reported in LIC 1968 page 193 that jurisdiction under Section 33C(2) can be exercised only by Courts specified in that behalf and that the mere fact that the Labour Court has been constituted under Section 7(1) of the Act for the purpose of adjudication of an industrial dispute as well as performing other functions that may be assigned to it, does not mean that that Court is automatically specified as the Court for the purpose of exercising jurisdiction under Section 33C(2) of the Act.

Since it is not proved that this court has been specified by the Government as the proper court to entertain such application, I cannot proceed with this application and, consequently, pass the following order:

ORDER

As this Tribunal has not been specifically appointed by the Government to entertain this application, as required under Section 33C(2) of the Act, it has no jurisdiction to entertain the same and, hence, I dismiss the application and leave each party to bear its own costs.

Dr. Renato de Noronha
Presiding Officer
Labour Court

Order

No. 28/42/82-ILD.

The following Award given by the Industrial Tribunal, Goa, Daman and Diu is hereby published as required under the provisions of Section 17 of the Industrial Dispute Act, 1947 (Central Act XIV of 1947).

By order and in the name of the Administrator of Goa, Daman and Diu.

Subhash V. Elekar, Under Secretary (Industries and Labour).

Panaji, 3rd February, 1986.

IN THE INDUSTRIAL TRIBUNAL GOA, DAMAN AND DIU, PANAJI GOA

(Before Dr. Renato de Noronha, Hon'ble Presiding Officer)

Reference No.: IT/19/83.

Shri Shaikh Mohammed Issak — Workman/Party I
V/s.

M/s. N. M. Abdul Karim — Employer/Party II

Workman/Party I represented by Shri P. Ghodge, President, Goa Shops and Industrial Workers' Union.

Employer/Party II represented by Shri K. N. Rao, Industrial Relation Consultant.

Panaji, Dated: 17-1-1986.

AWARD

The Government of Goa, Daman and Diu, by its Order No. 20/42/82-ILD dated 28th March, 1983, has referred for the adjudication by this Tribunal of an Industrial dispute between the above parties. The schedule annexed to the order of reference reads as follows:

"Whether the action of the employer, M/s. N. M. Abdul Karim, New Market, Margao Goa, in terminating the services of Shri Shaikh Mohammed Issak, Salesman, resident of Margao, with effect from 5-3-1982 is legal and justified?

If not, to what relief the workman is entitled to?"

2. The case of the workman, as per his statement of claim, is that he was appointed by the employer as Salesman since 1st January, 1978, and his services were terminated w.e.f. 5-3-1982. His salary at the time of termination was Rs. 225/- per month. At the time of termination he was not paid his legal dues and the provisions of Section 25F of the I.D.A., 1947, in short the Act, were not complied with.

3. The case of the employer, in its written statement, is that the workman was employed by the ex-management which was dissolved in 1981 and a new firm was formed with different partners/management. The workman was suspended from services from 5-3-1982 to 15-3-1982 when the management noticed pilferation of goods, which was admitted by the workman, when questioned. He was warned in the past for his bad habits and because of all this the Management was compelled to terminate his services. The workman had taken from the firm substantial amount by way of advances, besides expenses which the firm had to incur with the repairs of his house.

4. In his rejoinder, the workman has denied the allegations made by the employer against him, namely regarding mal-practices and advances.

5. Following issues were framed by the Tribunal

"Besides the issues involved in the Order of Reference, the following issue is hereby framed:

Whether the employer proves how the formation of a new Firm, if any, with different partners and Management, affects the continuity of services of the workman?"

6. On the above issues, the employer led the evidence of Abdul Rafa, Partners of the Firm, and the workman his own evidence.

7. After considering the written arguments filed by the representatives of the parties, I have to say as follows:

In this case, the order of reference in clear terms refers to the termination of services of the workman and since this Tribunal cannot travel beyond the terms of reference, the stand taken by the employer, in his statement before the Tribunal, that it is the workman who abandoned the services cannot be considered at all (vide the ruling of the High Court of Judicature, Bombay-Panaji Bench, dated 21-6-1984, reported in I LLJ page 480, in the case of Sitaram Vishnu Shirodkar V/s. The Administrator, Goa, Daman and Diu and others). Otherwise, it is to be noted that the employer, in its written statement, para 4 has stated that the workman was suspended from services from 5-3-1982 to 15-3-1982, when the employer noticed some pilferation of goods and, when questioned, the workman admitted his guilt and so the employer was compelled to terminate his services and so the stand of abandonment of services taken by the employer at a later stage seems

to be an after thought and contradictory to its initial stand admitting the termination of services.

8. In view of the employer's admission that there has been termination of the services of the workman by the employer, let us see now whether such termination is legal and justified. The employer, in its written statement and also whilst giving his statement before this Tribunal, has alleged pilferage of cloth by the workman. However, no inquiry was held regarding such misconduct, nor has the employer led any evidence to prove it. A bare allegation made by the employer in this respect, which is denied by the workman, cannot have any evidentiary value.

9. The employer has admitted that the services of the workman were terminated, although alleging also that the workman has abandoned the services. Such abandonment, however, cannot be considered at all by the Court, because it goes beyond the terms of reference, as stated above. He has further admitted in his statement before the Court that, at the time of termination of services of the workman, he did not pay him any amount because the workman had taken advances of Rs. 600/- to Rs. 700/-. However, no such advances have been proved by the employer.

10. The termination of the services of the workman by the employer amounts to retrenchment and it is not proved that the requirements of Section 25F of the Act, which are of mandatory nature, have been complied with by the employer, which would make the retrenchment invalid and inoperative.

11. The change of partners in the partnership would have no effect in the services of the workman who, admittedly, has continued in service, inspite of the change of partners and was not notified by the employer each time the partners were changed.

12. In view of the above, I pass the following order:

ORDER

The termination of the services of the workman by the employer is illegal and unjustified, the retrenchment order having been passed without the compliance of the mandatory requirements of Section 25F of the Act. Hence, the workman to be deemed as in continuous service and to be reinstated with full back wages. Costs of Rs. 200/- to be paid by the employer to the workman.

Dr. Renato de Noronha

Presiding Officer
Industrial Tribunal

Order

No. 28/6/86-ILD

The following Award given by the Industrial Tribunal, Goa, Daman and Diu is hereby published as required under the provisions of Section 17 of the Industrial Dispute Act, 1947 (Central Act XIV of 1947).

By order and in the name of the Administrator of Goa, Daman and Diu.

Subhash V. Elekar, Under Secretary (Industries and Labour).

Panaji, 27th February, 1986.

IN THE INDUSTRIAL TRIBUNAL GOA, DAMAN & DIU, PANAJI GOA

(Before Dr. Renato de Noronha, Hon'ble Presiding Officer)

Reference No.: IT/20/77

Shri Gopal Krishna Mangesh
Kurdekar
V/s.

M/s. Zuari Agro Chemicals
Limited

— Workman/Party I

— Employer/Party II

Workman/Party I represented by Adv. Subhas Prabhu Dessai.

Employer/Party II represented by Shri R. F. A. D'Souza, Personnel and Industrial Relations Consultant.

Panaji. Dated: 5-2-1986

AWARD

The Government of Goa, Daman and Diu, by its Order No. CLE/1/ID(2)/75/IT-8/77/890 dated 30th June, 1977, has referred for the adjudication of this Tribunal of an industrial dispute between the above parties. The schedule annexed to the Order of reference reads as follows:

"Whether the action of the management of M/s. Zuar Agro Chemicals Limited, Vasco-da-Gama, Goa, in terminating the services of Shri Gopal Krishna Mangesh Kurdekar, Craftsman-cum-Machine Operator on the grounds that he has abandoned the services with effect from 15-3-1973, is legal and justified?

If not, to what relief the concerned workman is entitled to?"

2. The workman, in his statement of claim, dated 3-8-1977 has prayed his reinstatement in services with full back wages at the rate of Rs. 230/- per month which he was getting as Craftsman-cum-Machine Operator, with effect from 15-3-1973 till his effective reinstatement, plus yearly increments from 1973 which he is entitled to alongwith other staff and Rs. 600/- as damages for the losses sustained because of his involvement in a false case. For this purpose, he has relied upon the correspondence and other documents filed in the Labour Commissioner's office.

3. The case of the workman/party I, as per his application dated 28-8-1975 addressed to the Labour Commissioner's office (vide annexure 'T'), is that he was working with the employer/party II as Craftsman-cum-machinery operator since 1971 and his services were confirmed in the month of December 1971; he was arrested by Vasco Police on 15-3-1973 on a false complaint of theft lodged against him by the employer Party II. He was acquitted by the JMFC, Vasco on 31-3-1975; during the pendency of the said case, he approached the second party to join duty, but, on the pretext that the case was still pending in court, the second party advised him not to join and assured him that he would be reinstated as soon as he was acquitted by the Court. On 6-8-1975, the first party, through his advocate, addressed a notice to the second party, to inform him within 7 days as to when he should resume duties as Operator, which letter was replied on 12-8-1975, stating that they cannot comply with the first party's request.

4. The employer, in its written statement, has stated that the workman/party I was appointed as Craftsman Pump and other machinery operator by letter dated 18-6-1971; he remained absent without any intimation w.e.f. 15-3-1973; on 17-3-1973, the sub Divisional Police Officer addressed a letter to the Security Officer of the Company, stating therein that the concerned workman was arrested in connection with a theft in Toyo Engineering Corporation and informing that in the search conducted by the police in the premises of the workman, certain articles were found which were suspected by the police to be stolen from the company or M/s. Toyo Engineering Corporation. The Sub-Inspector requested that a proper representative be sent to the police who could identify the property and lodge a complaint with the Vasco police station. A similar request was also made to Toyo Engineering Corporation. In pursuance to this letter, a representative was sent to the police station who lodged a complaint after identifying the articles. The Company having found that the workman was absent without intimation, addressed him a registered letter with A/D dated 28-3-73 to the address given by him to the company, calling upon the workman to report for duty immediately and give satisfactory explanation for his absence. The registered letter was returned undelivered with postal endorsements dated 30-3-1973, 31-3-1973, 2-4-1973, 3-4-1973, 5-4-1973, 6-4-1973, 7-4-1973 and 9-4-1973, that the addressee was not found. Then a registered letter with A/D dated 26-4-1973 was sent to the workman, intimating him that since he had not reported for duty till then, the company had come to the conclusion that the workman had abandoned the services and, as such, his name was struck off from the muster roll. This letter too was returned by the post office undelivered with postal endorsements that the addressee was not found on 27-4-1973, 28-4-1973, 30-4-1973, 1-5-1973, 2-5-1973, 3-5-1973 and 4-5-1973. After this, only by a letter dated 21-7-1975, the workman informed the Personnel Manager that he was arrested by the police on 15-3-1973 and was acquitted by the J.M.F.C. Vasco, and he would like to resume duties upon direction from the company. He further requested that his period of absence of 2 years be treated as leave period.

The matter was taken by the workman before the Labour Commissioner where conciliation proceedings took place and failed and, hence, this reference.

It is submitted that Section 2(A) of the Act is not attracted in this case as the workman has abandoned the services and as such, there was no industrial dispute when the Government made this reference, which would make the order of reference bad in law and in excess of jurisdiction and/or without jurisdiction. The action of the company in removing the name of the workman from the muster roll is bonafide, legal and justified and so the workman is not entitled to any of the claims made.

5. In his rejoinder, the workman has, interalia, denied that letters dated 28-3-1973 and 26-4-1973 were addressed to him by the company and has put the Management to strict proof thereof.

6. Following issues were framed by the Tribunal:

1. Do the employers/party II prove that the reference is bad in law and not maintainable?

2. Do the employers/party II prove that the termination of the services of the workman/party I is legal and justified?

3. Do the employers/Party II prove that the workman/Party I is not entitled for reinstatement in service with full back wages and continuity of service?

4. Does the workman/party I prove that his services were illegally terminated?

5. Does the workman/party I prove that he is entitled for reinstatement in service with full back wages and continuity of service?

6. Do the employers/Party II prove that the workman/Party I abandoned voluntarily his services?

7. Does the workman/party I prove that he is entitled for yearly increment from 19-7-1973?

8. Does the workman/party I prove that he is entitled to recover in this reference damages to the tune of Rs. 6,000/- for the loss suffered as a result of a false case filed against him by the employers/party II in the court of Judicial Magistrate First Class, at Vasco da Gama."

7. The workman's rep. led the evidence of the workman and closed his case. The employer's rep. led the evidence of Shri D. B. Taute and of Shri Richard D'Souza and closed his case. Various exhibits were produced by the witnesses in the course of their statements, which were taken on record. The Ld. Rep. of both the parties advanced their oral arguments and now the case is before me for passing award.

8. I shall deal first with the preliminary objection raised by the employer regarding the maintainability of the order of reference, subject matter of issue No. 1. This issue was framed on the basis of the allegation of the company in para 14 of their written statement that Section 2(A) of the Act was not attracted in this case as there was no industrial dispute on the date the Government made such reference, which reference, therefore, would be without jurisdiction or in excess of the jurisdiction of Section 10 of the Act.

But it is not so. Section 2A of the Act contemplates the termination of the services of the workman by way of discharge, dismissal, retrenchment or otherwise, and considers any dispute arising out of such termination as an industrial dispute (Vide S. C. Ruling in the case of L. Robert D'Souza V/s. Executive Engineer, Southern Railway and Another, reported in 1982 S. C. Case (Labour & Services) 124).

9. Considering now the issues concerning the termination of the services of the workman, namely issues No. 2, 4 and 6. From the evidence on record, it can be considered as proved that the concerned workman was arrested by the police on 15-3-1973 in connection with a theft of property from Toyo Engineering Corporation and from that date remained absent from duty without any intimation, atleast till 21-7-1975 (Exh M-3). The allegations of the workman in his statement before the Tribunal that on 4-4-1973, he went to see the employer to report for duty; that he was not allowed to sign the muster roll by one Rasquinho; that he met the Personnel Manager, whose name he does not know, who told him that he could not be taken on duty till he got any acquittal in the criminal case pending against him, are not proved. The workman has denied, in his cross, the suggestion that he did not go to the company till July 1975, but admitted that he did not meet Shri D'Souza on 4-4-1973. The workman's further statement in court that, on 4-4-1973, he wrote a letter to the company and gave it to Rasquinho is also not proved. He has admitted that, in his letter dated 21-7-1975 (Exh M-3), he has not referred

to this letter dated 4-4-1973 and also that he had not instructed his advocate about the writing of the said letter. He has further admitted in his cross dated 21-12-1981, at page 3 that he did not have any copy of the letter dated 4-4-1973, as he did not take any copy of the same.

10. Shri D. B. Taute, witness of the employer, has stated that the workman came to the company somewhere in July 1975 and wanted to meet Mr. D'Souza, the Personnel Officer. He handed over the letter Exh M-3 to the witness. The witness contacted Mr. D'Souza who was very busy at that time and told him that he would send a reply to the workman regarding Exh M-3. The witness conveyed this message to the workman, who then left the premises and went away. He has further stated that from March 1973, when the workman remained absent, till July 1975, the witness did not meet him in the intervening period.

In his cross: He has stated that since he was working in the Personnel department, he is aware that one or two letters were sent to the workman somewhere in 1973 and were returned undelivered. In one of the letters, the workman was asked to report for work.

11. The other witness of the employer, is Shri Richard D'Souza, Personnel Officer of the company at that time. He has stated that the workman did not see him personally at no time since March 1973 or before that. In July 1975, Mr. Taute, his secretary, informed him that the workman wanted to see him with a letter. The witness told Mr. Taute to accept the letter, as he was very busy and could not meet the workman at that time. Shri Taute, after sometime, came with the letter and told the witness that the workman had left. He has confirmed the signature of Mr. Sikchi in the letter dated 26-4-1973 (Exh M-13) and stated that he is aware that the Production Manager issued the letter dated 28-3-1973 to the workman as per the copy attached to Exh M-13 calling upon him to report for duty (Vide original Exh M-1).

In his cross: He has stated that with the exception of sending these 2 letters to the workman which came back undelivered and with the exception of displaying the letter dated 26-4-1973 on the notice board, no other steps were taken by the company. The witness came to know, before the first letter was sent to the workman, that he was arrested on a complaint made by Toyo Engineering Corporation and that he was released. He has further stated that he is sure that the workman did not approach the company in the first week of April 1973 for joining duties because had he approached, the matter would have been referred to the witness. The first letter dated 28-3-1973 is the show cause notice in connection with his absence and the letter Exh M-13 striking the name of the workman from the muster roll, amounts to the termination of services.

12. The envelopes of both the above letters dated 28-3-1973 (Exh M-1) and 26-4-1973 (Exh M-2) show that they were

tried to be served at the residence of the workman on various dates which have been endorsed on the envelopes but without success and then returned to the company. The workman has admitted that the address put on the envelope is correct.

13. Since the employer by its letter dated 28-3-1973 had asked the workman to report for duty and give satisfactory explanation for his absence and since he did not report till 26-4-1973, letter Exh M-2 was written to him when it appeared that the workman had abandoned the services and his name was struck off from the company's rolls with immediate effect. The company was justified, in my opinion in view of the silence of the workman during all this time till 21-7-1975, in drawing inference that the workman had abandoned the services and thereby terminating his services. The termination for abandonment, therefore, is legal and justified.

14. In view of the above findings, issues No. 3, 5, 7 and 8 do not arise. I, therefore, dispose off the reference by passing the following order:

ORDER

The termination of the services of the workman for abandonment of services w.e.f. 15-5-1973, is legal and justified. In the circumstances of the case, I leave each party to bear its own costs.

Dr. Renato de Noronha
Presiding Officer
Industrial Tribunal

Finance Department
Expenditure, Revenue and Control Branch

Notification

No. 16/1/81-Fin(R&C)

In exercise of the powers conferred by sub-section (1) of section 61 of the Chit Funds Act, 1982 (Central Act 40 of 1982), the Administrator of Goa, Daman and Diu hereby appoints the Commissioner of Sales Tax, Government of Goa, Daman and Diu, as Registrar of Chits for the purpose of the said Act.

By order and in the name of the Administrator of Goa, Daman and Diu.

K. M. Nambiar, Under Secretary Finance (Exp.).

Panaji, 20th March, 1986.